IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 4542 of 1997

Between:

Smt. Sovvari Satyavathi, W/o.Late Symala Rao, aged 36 years,
Occ: Revenue Cashier,O/o Superintending Engineer, A.P.S.E.B., Srikakulam.

..... PETITIONER

AND

1 The A.P.S.E.Board, represented by its Member Secretary,
Vidyuth Soudha, Somajiguda, Hyderabad.

2 The Superintending Engineer (Operation), A.P.S.E.Board,
Srikakulam Division, Srikakulam.

3 The Asst. Engineer, A.P.S.E.B., Srikakulam Division
Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction particularly one in the nature of Writ of Mandamus directing the respondents to treat the petitioner as regular revenue cashier and regularise the service of petitioner from the date of his initial appointment and pay him the scale attached to the post of revised from time to time with all consequential benefits such as arrears of pay, seniority etc.,

Counsel for the Petitioner: MR.P.LAKSHMANA RAO

Counsel for the Respondents: Standing Counsel for A.P.S.E.B.

The Court made the following O R D E R:

This writ petition is filed by the petitioner seeking Writ of Mandamus directing the respondents to treat her as a regular Revenue Cashier and regularize her services from the date of initial appointment and pay her the scale attached to the post as revised from time to time.

It is stated that the petitioner passed S.S.C and she was appointed on 01-09-1992 on commission basis. She was entrusted with the duties of Revenue Cashier in the Office of the second respondent apart from the work of record keeping. It is further claimed that the petitioner has been attending to the work of operation of the bank accounts in the office of the second respondent. She has been continuing as such for the last five years without any scale of pay attached to the said post, being paid. The petitioner also claimed that she is entitled to the benefit under the provisions of G.O.Ms.No.212, dated 22-04-1994, and sought for appropriate relief.

Learned Standing Counsel for the respondents, however, opposed the claim of the petitioner. He contended that the petitioner was appointed only on commission basis and she was not a regular employee of the respondents. She has been working on commission basis on behalf of the Rotary Club, which was allotted certain work of collection of bills, for which, it would be paid certain commission for each bill, therefore there is no relationship between the petitioner and the respondent-Board, and the petitioner is not entitled to any relief, much less the benefit under G.O.Ms.No.212, dated 22-04-1994.

Heard both sides and considered the material on record.

The petitioner sought for the relief of regularization as well as for payment of regular scale of pay attached to the post of Revenue Cashier though no evidence was placed before this Court showing that she was appointed by the respondents. In fact, her own case is that she was appointed on commission basis, but it was not stated as to who has appointed her even on commission basis. The petitioner filed only an identity card said to have been issued by the Electricity Board on behalf of Rotary Club, Srikakulam, for the purpose of collecting electricity bills in respect of

Srikakulam town. If the petitioner was working under the Rotary Club, it is not clear as to how the petitioner is entitled to claim any relief against the respondents, when there is no direct contract between the petitioner and the respondents and there is no relationship between the petitioner and the respondents as employee and employer. Though in the affidavit, petitioner sought the relief under G.O.Ms.No.212, but however, at the time of hearing, learned counsel for the petitioner relied upon the judgment of a Division Bench of this Court in ***Transmission Corporation of A.P.Ltd., and others Vs. R.Venkataramana and others*** and also a judgment of the Supreme Court reported in ***Silver Jubilee Tailoring House and others v. Chief Inspector of Shops and Establishments and another*** and contended that the petitioner is entitled for regularization as she has been working with the respondent-Board. Although, the petitioner relied upon the above two judgments, the petitioners therein were directly employed by the employer. In this case, the facts are totally different. Even by the version of the petitioner herself, she was not appointed by the respondents, though claimed that she has been working for the respondent-Board, through Rotary Club, on commission basis. If really the petitioner has been working under the Rotary Club on commission basis for the collection of the bills, she is not able to place any Rules or any proceedings under which she is entitled to claim either for regularization or for payment of any regular scale of pay. In fact, the stand of the respondents is that there is no relationship of employer and employee or even contractor and contractee.

Under the above circumstances, the writ petition is devoid of merits and is accordingly dismissed. However, if the petitioner chooses to file any proceedings before any other appropriate forum to prove the facts of the case as to her relationship with the respondents, it is always open for the petitioner to take any other legal proceedings permitted under law. No order as to costs.

21-09-2004

vrn

To

1 The Member Secretary, A.P.S.E.Board,
Vidyuth Soudha, Somajiguda, Hyderabad.

2 The Superintending Engineer (Operation), A.P.S.E.Board,
Srikakulam Division, Srikakulam.

3 The Asst. Engineer, A.P.S.E.B.Srikakulam Division
Srikakulam Dist.

4 Two CD copies.